

1 WO

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Justin Sloan Medved,

10 Plaintiff,

11 v.

12 Stachowski Farm Incorporated, et al.,

13 Defendants.
14

No. CV-15-01292-PHX-ESW

ORDER

15
16 Plaintiff has consented to the exercise of Magistrate Judge jurisdiction. (Doc. 6).
17 Pending before the Court is Plaintiff's Application to Proceed in District Court without
18 Prepaying Fees or Costs (Doc. 2). For good cause shown, the Application is granted and
19 Plaintiff is allowed to proceed *in forma pauperis*. The Court, however, must screen the
20 Complaint (Doc. 1) before it is allowed to be served. 28 U.S.C. § 1915(e)(2). As the
21 Ninth Circuit Court of Appeals has explained, "section 1915(e) not only permits but
22 requires a district court to dismiss an *in forma pauperis* complaint that fails to state a
23 claim." *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000).

24 Plaintiff has filed numerous complaints in this Court. Res judicata, or claim
25 preclusion, prohibits lawsuits on "any claims that were raised or could have been raised"
26 in a prior action. *Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708, 713 (9th Cir.
27 2001) (quoting *W. Radio Servs. Co. v. Glickman*, 123 F.3d 1189, 1192 (9th Cir. 1997)).
28 "Res judicata applies when 'the earlier suit . . . (1) involved the same 'claim' or cause of

1 action as the later suit, (2) reached a final judgment on the merits, and (3) involved
 2 identical parties or privies.” *Mpoyo v. Litton Electro-Optical Systems*, 430 F.3d 985,
 3 987 (9th Cir. 2005) (quoting *Sidhu v. Flecto Co.*, 279 F.3d 896, 900 (9th Cir. 2002)).
 4 Regarding the second factor above, a dismissal “with prejudice” is an acceptable
 5 shorthand for adjudication on the merits. *See Stewart v. U.S. Bancorp*, 297 F.3d 953, 956
 6 (9th Cir. 2002); Fed. R. Civ. P. 41(b) (“Unless the dismissal order states otherwise under
 7 this subdivision (b) and any dismissal not under this rule—except one for lack of
 8 jurisdiction, improper venue, or failure to join a party under Rule 19—operates as an
 9 adjudication on the merits.”). Hence, “[f]ederal law dictates that a dismissal with
 10 prejudice bars a later suit under res judicata.” *Beard v. Sheet Metal Workers Union*,
 11 *Local 150*, 908 F.2d 474, 477 n.3 (9th Cir. 1990); *Classic Auto Refinishing, Inc. v.*
 12 *Marino*, 181 F.3d 1142, 1144 (9th Cir. 1999) (“There can be little doubt that a dismissal
 13 with prejudice bars any further action between the parties on the issues subtended by the
 14 case.”); *Smith v. Lemon*, 442 F.2d 1195, 1195 (9th Cir. 1971) (per curiam).

15 Plaintiff’s Complaint (Doc. 1) in this case is an almost exact copy of the Amended
 16 Complaint that Plaintiff filed in *Medved v. Stachowski Farm Inc.*, CV-14-02075-GMS
 17 (D. Ariz. Dec. 23, 2014), Doc. 9. In his November 18, 2014 order, District Judge G.
 18 Murray Snow dismissed the Amended Complaint with leave to amend. CV-14-02075-
 19 GMS, Doc. 10. Judge Snow directed the Clerk of Court to dismiss the action with
 20 prejudice if Plaintiff did not file a second amended complaint within thirty days of Judge
 21 Snow’s order. Plaintiff did not file a second amended complaint, and the Clerk of Court
 22 dismissed the action with prejudice on December 23, 2014. CV-14-02075-GMS, Doc.
 23 11. Plaintiff appears to concede that he previously filed the current case and
 24 acknowledges that it was dismissed with prejudice. Plaintiff states in his Complaint
 25 (Doc. 1 at 42) that “[t]his case was originally dismissed with prejudice”

26 Because the Complaint (Doc. 1) names the same defendants and contains the same
 27 claims as the Amended Complaint that has been dismissed with prejudice, the Court finds
 28 that the Complaint (Doc. 1) is barred under the principle of res judicata.

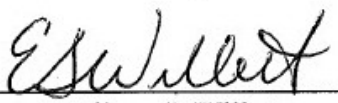
1 Accordingly,

2 **IT IS ORDERED** granting Plaintiff's Application to Proceed in District Court
3 without Prepaying Fees or Costs (Doc. 2).

4 **IT IS FURTHER ORDERED** denying Plaintiff's "Motion to Allow Electronic
5 Filing by a Party Appearing Without an Attorney and Supporting Information" (Doc. 3).

6 **IT IS FURTHER ORDERED** dismissing the Complaint (Doc. 1) with prejudice.
7 The Clerk of Court is directed to terminate this case.

8 Dated this 4th day of December, 2015.

9
10 
11 _____
12 Eileen S. Willett
13 United States Magistrate Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28